

# RULES AND REGULATIONS CONCERNING THE NEBRASKA ENERGY CODE

NEBRASKA ADMINISTRATIVE CODE TITLE 107 – STATE ENERGY OFFICE

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## Chapter 1 – INTRODUCTION

**001** In 1980, LB 954 was passed by the Legislature and signed into law by the Governor to promote the conservation of energy resources and to provide for public health, safety and welfare. The State Energy Office was directed to enforce the Lighting and Thermal Standards portion of the Law. The original legislation has been modified by LB 2 (1981), LB 799 (1982), LB 124 (1983), LB 315 (1985), LB 622, (1997), LB 1135 (2000), and LB 888 (2004). The most recent of these bills made such significant changes in the State's Thermal and Lighting Standards (hereafter referred to as the Nebraska Energy Code) that a complete revision of the Rules and Regulations which govern the Nebraska Energy Code is necessary.

**002** The following Rules and Regulations pertain to the procedures to be used to comply with the law by the State Energy Office, local code authorities, building designers, contractors, owners, and all other interested parties. These Rules and Regulations implement the provisions of the law regarding the Nebraska Energy Code.

**003** The amendments to Title 107, Nebraska Administrative Code, Chapters 1-6, are effective on and after July 1, 2005.

## Chapter 2 – DEFINITIONS

**001 Addition** means an extension or increase in the height, conditioned floor area, or conditioned volume of a building or structure.

**002 Architect or Engineer** means any person licensed as an architect or professional engineer under the *Engineers and Architects Regulation Act*.

**003 Building** means any new structure, renovated building, or addition which provides facilities or shelter for public assembly, educational, business, mercantile, institutional, warehouse, or residential occupancies, as well as those portions of factory and industrial facilities which are used primarily for human occupancy, such as office space, but not including any structure which has a consumption of traditional energy sources for all purposes not exceeding the energy equivalent of one watt per square foot.

**004 Contractor** means the person or entity responsible for the overall construction of any building or the installation of any component which affects the energy efficiency of the building.

**005 Economically Justified** means the initial cost is less than the present discounted value of resulting savings over the life of a component or requirement using future actual dollars and a market rate of interest.

**006 Equivalent or Equivalent Code** means standards that meet or exceed the requirements of the Nebraska Energy Code.

**007 Floor Area** means the total area of the floor or floors of a building, expressed in square feet, which is within the exterior faces of the shell of the structure which is heated or cooled.

**008 Local Code** means a lighting and thermal efficiency ordinance, resolution, code or standard which has been adopted by a county, city or village and which meets the requirements set forth in Neb. Rev. Stat. § 81-1618.

**009 Nebraska Energy Code** means the 2003 International Energy Conservation Code. The 2003 International Energy Conservation Code is available at <http://www.iccsafe.org/e/prodshow.html?prodid=3800S03&stateInfo=wdadlfldgAJbdjdx464913>. The 2003 International Energy Conservation Code may also be obtained by telephoning the International Code Council at 1-800-786-4452.

**010 Office** means the State Energy Office.

**011 Prime Contractor** means the person(s) or entity(s) who has a contract with the owner and falls within the definition of contractor listed in Neb. Rev. Stat. § 81-1609. Prime contractor may also mean a property owner who performs the work of a prime contractor or performs the work him/herself.

**012 Renovation** means alterations on an existing building which will cost more than fifty percent of the replacement cost of such building at the time work is commenced or which was not previously heated or cooled, for which a heating or cooling system is now proposed, except that the restoration of historical buildings shall not be included.

**013 Residential Building** means a building three stories or less that is used primarily as one or more dwelling units.

**014 Traditional Energy Sources** means electricity, petroleum-based fuels, uranium, coal, and all nonrenewable forms of energy.

## Chapter 3 – APPLICABILITY

**001** All new buildings, except those excluded by section 002 of this chapter, and additions and renovations to all existing buildings on which construction is initiated on or after July 1, 2005, shall be constructed so as to comply with the Nebraska Energy Code or a local equivalent code.

**002** The following buildings are exempt from the requirements of the Nebraska Energy Code:

**002.01** Any building which has a peak design rate of energy usage for all purposes of less than one watt, or three and four-tenths British Thermal Units per hour, per square foot of floor area.

**002.02** Any building which is neither heated nor cooled.

**002.03** Any building or portion thereof which is owned by the United States of America.

**002.04** Any manufactured home as defined by Neb. Rev. Stat. § 71-4603.

**002.05** Any modular housing unit as defined by subdivision (1) of Neb. Rev. Stat. § 71-1557.

**002.06** Any building:

**002.06a** listed on the National Register of Historic Places,

**002.06b** determined to be eligible for the National Register of Historic Places by the State Historic Preservation Officer, or

**002.06c** designated as an individual landmark or heritage preservation site by a municipality or located within a designated landmark or heritage preservation district.

## Chapter 4 – LOCAL CODE ADOPTION

**001** No county, city or village shall enforce a lighting and thermal efficiency ordinance, resolution, code, or standard which is not equivalent to the Nebraska Energy Code as set forth in Neb. Rev. Stat. § 81-1618, except as set forth in section 003 of this chapter.

**002** Any county, city or village may adopt and enforce a lighting and thermal efficiency ordinance, resolution, code, or standard which is equivalent to the Nebraska Energy Code as set forth in Neb. Rev. Stat. § 81-1618, and may charge a fee sufficient to pay for the costs incurred in enforcing such a code. The clerk of a county, city or village which adopts a local code pursuant to this law shall notify the Office of the adoption of such code. The letter of notification shall include:

**002.01** the technical basis of the local code,

**002.02** the ordinance or resolution number and date of passage, and

**002.03** the code jurisdiction limits.

**003** Any county, city or village which adopts and enforces a lighting and thermal efficiency ordinance, resolution, code, or standard may waive a specific requirement of the Nebraska Energy Code when meeting such requirement is not economically justified. The following procedures shall apply:

**003.01** The local code authority shall submit to the Office its analysis for determining that a specific requirement is not economically justified.

**003.02** The Office shall review such analysis and transmit its findings and conclusions to the local code authority within 20 working days of receipt of the submission from the local code authority.

**003.03** The local code authority shall submit to the Office its explanation as to how the original code or any revised code addresses the issues raised by the Office, after which the local code authority may proceed to enforce its ordinance, resolution, code, or standard.

**004** Any county, city or village which adopts and enforces, or is considering adopting and enforcing a local code, may request technical assistance from the Office. This assistance shall include the training of building officials in building technology and enforcement procedures related to implementation of the Nebraska Energy Code, and the development of training programs suitable for presentation by local government officials, educational institutions, and other persons.

## Chapter 5 – LOCAL CODE ENFORCEMENT

**001** Any county, city or village code jurisdiction may conduct inspections as are necessary to ensure that new buildings, additions, and/or renovations are actually being constructed in accordance with the Nebraska Energy Code or equivalent. Such inspections shall:

**001.01** be made at reasonable hours, and

**001.02** be conducted only after permission has been granted by the owner or occupant or after a warrant has been issued pursuant to Neb. Rev. Stat § 29-830 to § 29-835.

**002** If the local code authority finds, within two years from the date a building is first occupied, that the building, at the time of construction, did not comply with the Nebraska Energy Code or equivalent code adopted by a county, city or village in effect at such time, the code authority may order the owner or prime contractor to take those actions necessary to bring the building into compliance.

**003** The Office shall investigate complaints in which it is alleged that the county, city or village is not effectively enforcing its local code, or that the code is not equivalent to the Nebraska Energy Code, and shall order the county, city or village to take corrective action if such complaints are substantiated by the investigation.

**004** The Office shall not inspect construction nor intervene in any other way in the process of building design and/or construction within the jurisdiction of any county, city or village which has adopted and is enforcing a local code, except as set forth in section 003 of this chapter.

## Chapter 6 – STATE ENFORCEMENT

**001** In all parts of the State except those areas within the jurisdiction of a county, city or village which has adopted and is enforcing a local code, the following requirements shall apply:

**001.01** If an architect or engineer is not retained in designing the building, then the prime contractor(s) shall be responsible for causing the building to be constructed in accordance with the Nebraska Energy Code.

**001.02** If an architect or engineer is retained in designing the building, then the architect or engineer shall be responsible for designing the building in accordance with the Nebraska Energy Code, and shall indicate that the building design meets the Nebraska Energy Code by placing his or her state registration seal on the construction drawings. The prime contractor(s) shall then be responsible for causing the building to be constructed in accordance with the plans prepared by the architect or engineer.

**002** The Office may conduct such inspections as are necessary to ensure that new buildings, additions, and/or renovations are actually being constructed in accordance with the Nebraska Energy Code, and shall order corrective action where warranted. Such inspections shall:

**002.01** be made at reasonable hours, and

**002.02** be conducted only after permission has been granted by the owner or occupant or after a warrant has been issued pursuant to Neb. Rev. Stat. § 29-830 to § 29-835.

**003** If the Office finds, within two years of the date a building is first occupied, that the building, at the time of construction, did not comply with the Nebraska Energy Code, the Office may order the owner or prime contractor to take those actions necessary to bring the building into compliance.

**004** The Office shall investigate complaints by building owners regarding substandard construction in areas outside the jurisdiction of a local code, and shall order corrective action where warranted, as set forth in Neb. Rev. Stat. § 81-1616.